

# House Bill 2736

Sponsored by Representative POST

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that smoke shop certified by Oregon Health Authority may allow on-premises consumption of alcoholic beverages.

## A BILL FOR AN ACT

1  
2 Relating to certified smoke shops; amending ORS 433.847.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 433.847 is amended to read:

5 433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system  
6 for smoke shops. In adopting such rules, the authority shall prohibit the smoking, aerosolizing or  
7 vaporizing of inhalants that are not tobacco products in smoke shops.

8 (2) The authority shall issue a smoke shop certification to a business that:

9 (a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products  
10 and smoking instruments used to smoke tobacco products, with at least 75 percent of the gross re-  
11 venues of the business resulting from such sales;

12 (B) Prohibits persons under 18 years of age from entering the premises;

13 (C) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting  
14 on the premises;

15 (D) Does not sell or offer food or beverages and does not sell[,] **or** offer [*or allow on-premises*  
16 *consumption of*] alcoholic beverages;

17 (E) Is a stand-alone business with no other businesses or residential property attached to the  
18 premises;

19 (F) Has a maximum seating capacity of four persons; and

20 (G) Allows the smoking of tobacco product samples only for the purpose of making retail pur-  
21 chase decisions;

22 (b) On December 31, 2008:

23 (A) Met the requirements of paragraph (a)(A) to (D) of this subsection; and

24 (B)(i) Was a stand-alone business with no other businesses or residential property attached; or

25 (ii) Had a ventilation system that exhausted smoke from the business and was designed and  
26 terminated in accordance with the state building code standards for the occupancy classification in  
27 use; or

28 (c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June  
29 30, 2011, by the authority on or before December 31, 2012; and

30 (B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the  
31 business results from the sale of cigarettes.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop  
2 certification every five years by demonstrating to the satisfaction of the authority that the smoke  
3 shop:

4 (a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

5 (B)(i) Is a stand-alone business with no other businesses or residential property attached; or

6 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-  
7 nated in accordance with the state building code standards for the occupancy classification in use;  
8 and

9 (b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the  
10 business results from the sale of cigarettes.

11 (4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop  
12 certification every five years by demonstrating to the satisfaction of the authority that the smoke  
13 shop:

14 (a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

15 (b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the  
16 business results from the sale of cigarettes.

17 (5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may  
18 transfer the certification with ownership of the smoke shop if the transfer is made in accordance  
19 with rules adopted by the authority.

20 (6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified  
21 in a new location under subsection (2)(b) of this section if:

22 (a)(A) The new location occupies no more than 3,500 square feet; or

23 (B) If the old location occupied more than 3,500 square feet, the new location occupies no more  
24 than 110 percent of the space occupied by the old location; and

25 (b) The smoke shop as operated in the new location:

26 (A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

27 (B)(i) Is a stand-alone business with no other businesses or residential property attached; or

28 (ii) Has a ventilation system that exhausts smoke from the business and is designed and termi-  
29 nated in accordance with the state building code standards for the occupancy classification in use;  
30 and

31 (C) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the  
32 business results from the sale of cigarettes.

33 (7) A smoke shop certified under subsection (2)(c) of this section may continue to be certified  
34 in a new location under subsection (2)(c) of this section if:

35 (a)(A) The new location occupies no more than 3,500 square feet; or

36 (B) If the old location occupied more than 3,500 square feet, the new location occupies no more  
37 than 110 percent of the space occupied by the old location; and

38 (b) The smoke shop as operated in the new location:

39 (A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

40 (B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the  
41 business results from the sale of cigarettes.

42 (8) Rules adopted under this section must provide that, in order to obtain a smoke shop certi-  
43 fication, a business must agree to allow the authority to make unannounced inspections of the  
44 business to determine compliance with ORS 433.835 to 433.875.